

1999 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1081

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1081

House Industry, Business, and Labor Committee

Conference Committee

Hearing Date January 11, 1999

Tape Number	Side A	Side B	Meter #
1	x		0-15.9
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes:

CHAIRMAN BERG OPENED THE HEARING ON HB 1081; A BILL RELATING TO TEMPORARY PRIVATE INVESTIGATIVE AND SERVICE LICENSES OR REGISTRATIONS; FEES AND CRIMINAL HISTORY RECORD CHECKS FOR APPLICANTS FOR A LICENSE OR REGISTRATION TO PROVIDE PRIVATE INVESTIGATIVE AND SECURITY SERVICES.

JIM FLEMING, Attorney General's Office, introduced HB 1081. He said that one of the main points of the bill was to change "made" to "shall" in reference to the FBI providing access to the board and the board conducting a background check. The language that we have here would be acceptable to the FBI. The second part is an increased fee area. - "The fees are 'maximum' instead of 'mandatory' amounts." The maximum would cover agencies neglecting to pay their bills. The third part relates back to the background check. Fleming said that the turnaround rate

for a background check in the FBI takes several weeks. The board decided that a temporary license would work best until the background check comes back so that the individuals can be out there doing private investigation work until that point. If the background check comes back and it all looks good, they get a permanent license/annual license. If it comes back bad, the temporary license is revoked and the person can no longer operate in the field. It is not practical for an agency to wait six weeks while a background check is conducted.

REP. KEMPENICH asked what the fee is that is non refundable. Is it less than \$100.

FLEMING answered the registration fee at time of processing. It is less than \$100. The Peace Officers Association recently met recently and decided that including a state background check as well would be preferred. They would be in support of an amendment to include that.

REP. KEISER asked about preventing abuse of the temporary license.

FLEMING replied that rules would have to be adopted regarding that.

REP. JOHNSON noted the issue of liability. Who is responsible if something goes wrong?

FLEMING said that two types are issued, a stand alone business applying for their own license - no employer is responsible. The second situation is where an employee is issued one. The Tork Claims Act would make the board fairly safe on liability issues.

REP. ECKSTROM asked Jim and the board to consider maintaining the statewide check. For instance, someone accused of domestic violence would not be the best person to have out there.

REP. KEISER noted that the check takes two to three weeks, what is the rush of the temporary license. Is there a great number of people that can't wait that short time?

FLEMING replied that the FBI background check takes 6 weeks, and that there is a large turnover between agencies.

BILL BUTCHER, ND PISB, testified in favor of HB 1081 as a member of a private investigation industry. Answering Rep. Keiser's question, he noted that it also refers to security workers as well as private investigation and there is a lot of turnover in both areas.

CHAIRMAN BERG questioned the background check state wide and nationally? The only distinction right now is that we are getting a state background check now and it is final?

BILL said that the amendment that was suggested by the Peace Officers is that we do both and we have no objection to that.

DICK PECK testified in favor of HB 1081 on behalf of the North Dakota Peace Officers Association. They would support it with the amendments. He noted that the local check gives a very good background check.

REP. KEISER again questioned the temporary license. With this bill, we will be licensing immediately.

DICK replied yes, that is currently how it is handled.

CHAIRMAN BERG asked if there is a problem now with the timing of employment to the licensing?

FLEMING replied that all of the other things have to be completed before the temporary license is granted also take some time.

CHAIRMAN BERG noted that maybe a statewide check before the temporary license might be good. Will that delay employment for that individual?

FLEMING said that he hopes it will. They are trying to prevent it now.

CHAIRMAN BERG further asked if this bill was presented to streamline the process of receiving their licenses. Is the delay a problem?

Page 4

House Industry, Business, and Labor Committee

Bill/Resolution Number Hb 1081

Hearing Date January 11, 1999.

PECK answered that the only real delay is the national one.

CHAIRMAN BERG CLOSED THE HEARING ON HB 1081.

January 12, 1999

COMMITTEE ACTION

REP. KEMPENICH moved a DO PASS on HB 1081. REP. GLASSHEIM seconded the motion.

The motion carried.

ROLL CALL - 14 YEA, 0 NAE, 1 ABSENT AND NOT VOTING.

FLOOR ASSIGNMENT - REP. KEISER

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1081 1-12-99

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-12-99

Tape Number	Side A	Side B	Meter #
1	x		351 - 1105
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes: Chairman Berg opened the discussion on the amendments to HB 1081.

Vice Chairman Kempenich explained the amendments to the committee.

Vice Chairman Kempenich made a motion to adopt the amendments.

Rep. Ekstrom second the motion.

The voice vote was 13 yea, 1 nay, 1 absent.

The motion carried.

Rep. Keiser made a motion for a Do Pass as Amended.

Rep. Glassheim second the motion.

The roll call vote was 14 yea, 0 nay, 1 absent. The motion carries.

Vice Chairman Kempenich will carry the bill.

FISCAL NOTE

(Return original and 14 copies)

Bill/Resolution No.: _____ Amendment to: Eng. HB 1081

Requested by Legislative Council Date of Request: 3/22/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

There is no change to this fiscal note from that prepared on 1/27/99. The FBI requires that non-criminal justice record checks originating in North Dakota be processed by the North Dakota BCI. The BCI is required to screen the fingerprint cards prior to forwarding them to the FBI to make sure that the fingerprints are readable. If the prints are not readable, they must be returned by the BCI to the requesting agency. Any prints rejected by the FBI are returned by them to the BCI, which in turn returns them to the requestor. The FBI bills quarterly for the records checks they do, and all such billings are sent to the BCI. The BCI must separate charges for all of the various requesting agencies and send separate billings to them. Checks are sent to the BCI, which in turn forwards them to the FBI. It is also BCI's responsibility to maintain appropriate financial records to monitor payment of these bills. Even though state record checks may not be done, there are considerable BCI staff resources required to act in this liaison capacity between the FBI and local non-criminal justice agencies.

There is currently a backlog in entering fingerprint card data of 4-6 months. The number of non-criminal justice requests for criminal records checks has increased from 152 in 1987 to 6,280 in 1998. And in this period, there has been no increase in the size of the criminal records staff.

The ability to enter fingerprint card data, and the subsequent disposition data from prosecutors, in a timely manner, has a direct and crucial effect on the accuracy and completeness of the data that is released as criminal record information both in the state and through the FBI. If we have it sitting in a backlog, the FBI doesn't have it, therefore their records are not complete.

With the current staffing level, we cannot keep up with incoming information. Any additional work such as would be created by this bill will require additional staff resources and additional space to accommodate increased personnel. An identification technician position is included in the Governor's budget to address the backlog of fingerprint cards, but additional staff resources would be necessary if this bill is passed and involves BCI staff as described above.

The following is estimated to support an additional one-fourth position for the next biennium to process state criminal records checks requests and to provide liaison and billing services for national records checks:

Salary	\$ 16,896
Benefits	6,518
<u>Total</u>	<u>\$23,414</u>
Operating Expenses	\$ 5,810
Grand Total	\$ 29,224

Operating expenses include a share of computer equipment, training, and additional office space, in addition to a share of support services.

The performance of state criminal history record checks for private investigative and security service licenses or registration, in addition to the national FBI check, will utilize the one-fourth identification technician position requested above.

There will, however, as a result of the \$20 fee charged by the state, be revenues which are paid to the general fund. It is estimated that 400 records checks per year will be required.

Note: Other bills which have the effect of increasing the need for criminal record staff resources in the BCI include SB 2058 and SB 2171.

2. **State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:			\$16,000		\$16,000	
Expenditures:			\$29,224		\$30,393	

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: none
- b. For the 1999-2001 biennium: \$29,224
- c. For the 2001-03 biennium: \$30,393

4. County, City, and School District fiscal effect in dollar amounts:

1995-97 Biennium			1997-99 Biennium			1999-2001 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

If additional space is needed
attach a supplemental sheet.

Signed Jerald C. Kemmet

Typed Name Jerald C. Kemmet

Date Prepared 3/23/99

Department Office of Attorney General, BCI

Phone Number 328-5500

FISCAL NOTE

(Return original and 14 copies)

Bill/Resolution No.: _____ Amendment to: HB 1081 (Revised)

Requested by Legislative Council Date of Request: _____

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

The FBI requires that non-criminal justice record checks originating in North Dakota be processed by the North Dakota BCI. The BCI is required to screen the fingerprint cards prior to forwarding them to the FBI to make sure that the fingerprints are readable. If the prints are not readable, they must be returned by the BCI to the requesting agency. Any prints rejected by the FBI are returned by them to the BCI, which in turn returns them to the requestor. The FBI bills quarterly for the records checks they do, and all such billings are sent to the BCI. The BCI must separate charges for all of the various requesting agencies and send separate billings to them. Checks are sent to the BCI, which in turn forwards them to the FBI. It is also BCI's responsibility to maintain appropriate financial records to monitor payment of these bills. Even though state record checks may not be done, there are considerable BCI staff resources required to act in this liaison capacity between the FBI and local non-criminal justice agencies.

There is currently a backlog in entering fingerprint card data of 4-6 months. The number of non-criminal justice requests for criminal records checks has increased from 152 in 1987 to 6,280 in 1998. And in this period, there has been no increase in the size of the criminal records staff.

The ability to enter fingerprint card data, and the subsequent disposition data from prosecutors, in a timely manner, has a direct and crucial effect on the accuracy and completeness of the data that is released as criminal record information both in the state and through the FBI. If we have it sitting in a backlog, the FBI doesn't have it, therefore their records are not complete.

With the current staffing level, we cannot keep up with incoming information. Any additional work such as would be created by this bill will require additional staff resources and additional space to accommodate increased personnel. An identification technician position is included in the Governor's budget to address the backlog of fingerprint cards, but additional staff resources would be necessary if this bill is passed and involves BCI staff as described above.

The following is estimated to support an additional one-fourth position for the next biennium to process state criminal records checks requests and to provide liaison and billing services for national records checks:

Salary	\$ 16,896
Benefits	<u>6,518</u>
Total	\$23,414
Operating Expenses	<u>\$ 5,810</u>
Grand Total	\$ 29,224

Operating expenses include a share of computer equipment, training, and additional office space, in addition to a share of support services.

The performance of state criminal history record checks for private investigative and security service licenses or registration, in addition to the national FBI check, will utilize the one-fourth identification technician position requested above.

There will, however, as a result of the \$20 fee charged by the state, be revenues which are paid to the general fund. It is estimated that 400 records checks per year will be required.

Note: Other bills which have the effect of increasing the need for criminal record staff resources in the BCI include SB 2058 and SB 2171.

State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:			\$16,000		\$16,000	
Expenditures:			\$29,224		\$30,393	

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: none
- b. For the 1999-2001 biennium: \$29,224
- c. For the 2001-03 biennium: \$30,393

4. County, City, and School District fiscal effect in dollar amounts:

1995-97 Biennium				1997-99 Biennium			1999-2001 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts	

If additional space is needed
attach a supplemental sheet.

Signed Jerald C. Kemmet

Typed Name Jerald C. Kemmet

Date Prepared 1/27/99 Department Office of Attorney General, BCI

Phone Number 328-5500

FISCAL NOTE

Return original and 10 copies)

Bill/Resolution No.: _____ Amendment to: HB 1081

Requested by Legislative Council Date of Request: _____

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

The FBI requires that non-criminal justice record checks originating in North Dakota be processed by the North Dakota BCI. The BCI is required to screen the fingerprint cards prior to forwarding them to the FBI to make sure that the fingerprints are readable. If the prints are not readable, they must be returned by the BCI to the requesting agency. Any prints rejected by the FBI are returned by them to the BCI, which in turn returns them to the requestor. The FBI bills quarterly for the records checks they do, and all such billings are sent to the BCI. The BCI must separate charges for all of the various requesting agencies and send separate billings to them. Checks are sent to the BCI, which in turn forwards them to the FBI. It is also BCI's responsibility to maintain appropriate financial records to monitor payment of these bills. Even though state record checks may not be done, there are considerable BCI staff resources required to act in this liaison capacity between the FBI and local non-criminal justice agencies.

There is currently a backlog in entering fingerprint card data of 4-6 months. The number of non-criminal justice requests for criminal records checks has increased from 152 in 1987 to 6,280 in 1998. And in this period, there has been no increase in the size of the criminal records staff.

The ability to enter fingerprint card data, and the subsequent disposition data from prosecutors, in a timely manner, has a direct and crucial effect on the accuracy and completeness of the data that is released as criminal record information both in the state and through the FBI. If we have it sitting in a backlog, the FBI doesn't have it, therefore their records are not complete.

With the current staffing level, we cannot keep up with incoming information. Any additional work such as would be created by this bill will require additional staff resources and additional space to accommodate increased personnel. An identification technician position is included in the Governor's budget to address the backlog of fingerprint cards, but an additional position would be necessary if this bill is passed and involves BCI staff as described above.

The following is estimated to support an additional position for the next biennium:

Salary	\$67,584
Benefits	<u>26,072</u>
Total	\$93,656
Operating Expenses	<u>\$23,240</u>
Grand Total	\$116,896

Operating expenses include computer equipment, training, and additional office space, in addition to a share of support services.

The performance of state criminal history record checks for private investigative and security service licenses or registration, in addition to the national FBI check, will utilize the identification technician position requested above.

There will, however, as a result of the \$20 fee charged by the state, be revenues which are paid to the general fund. It is estimated that 400 records checks per year will be required.

Note: Other bills which have the effect of increasing the number of non-criminal justice record checks would be anticipated to share this fiscal note and should be referenced. Such bills include SB 2058 and SB 2171.

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:			\$16,000		\$16,000	
Expenditures:			\$116,896		\$121,572	

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: none
- b. For the 1999-2001 biennium: \$116,896
- c. For the 2001-03 biennium: \$121,572

4. County, City, and School District fiscal effect in dollar amounts:

1995-97 Biennium			1997-99 Biennium			1999-2001 Biennium		
Cities	Cities	School Districts	Cities	School Districts	Counties	Cities	Cities	School Districts

If additional space is needed attach a supplemental sheet.

Signed Jerald C. Kemmet

Typed Name Jerald C. Kemmet

Date Prepared 1/15/99

Department Office of Attorney General, BCI

Phone Number 328-5500

FISCAL NOTE

Return original and 10 copies)

Bill/Resolution No.: HB 1081 Amendment to: _____

Requested by Legislative Council Date of Request: 12-29-98

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

The proposed bill provides clarification of guidelines already in place. The NDPISB does not receive any general or special funds. No impact on any funding is anticipated.

2. State fiscal effect in dollar amounts: *None*

1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds

Revenues:

Expenditures:

N/A

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: *NDPISB does not receive*
- b. For the 1999-2001 biennium: *any appropriations*
- c. For the 2001-03 biennium: _____

4. County, City, and School District fiscal effect in dollar amounts: *None*

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

The NDPISB does not receive any special funds or allocations. Therefore, no fiscal effects.

If additional space is needed, attach a supplemental sheet.

Signed *Francine Johnson*

Typed Name Francine Johnson

Department *D.D. Private Investigation & Security Board*

Phone Number *701-222-3063*

Date Prepared: *1-7-99*

Proposed by
North Dakota Private Investigative and Security Board
January 11, 1999

PROPOSED AMENDMENTS TO HOUSE BILL 1081

Page 1, line 22, remove the overstrike over "~~state and~~" and
remove the overstrike over "~~with the bureau of~~"

Page 1, line 23, remove the overstrike over "~~eriminal
investigation for state processing and filing~~" and remove
the overstrike over "~~for~~"

Page 1, line 24, remove the overstrike over "~~federal processing~~"

Page 2, line 4, remove "nationwide"

Page 2, line 6, after the first "a" insert "state and"

Renumber accordingly

Date: 1-12-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1081

House Industry, Business and Labor Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass

Motion Made By Kempenich Seconded By Glassheim

Representatives	Yes	No	Representatives	Yes	No
Chair - Berg	/		Rep. Thorpe		
Vice Chair - Kempenich	/				
Rep. Brekke	/				
Rep. Eckstrom	/				
Rep. Froseth	/				
Rep. Glassheim	/				
Rep. Johnson	/				
Rep. Keiser	/				
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux	/				
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz	/				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Keiser

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1081: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1081 was placed on the Sixth order on the calendar.

Page 1, line 22, remove the overstrike over "~~state and~~" and remove the overstrike over "~~with the bureau of~~"

Page 1, line 23, remove the overstrike over "~~criminal investigation for state processing and filing~~" and remove the overstrike over "~~for~~"

Page 1, line 24, remove the overstrike over "~~federal processing~~"

Page 2, line 4, remove "nationwide"

Page 2, line 6, after the first "a" insert "state and"

Renumber accordingly

1999 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1081

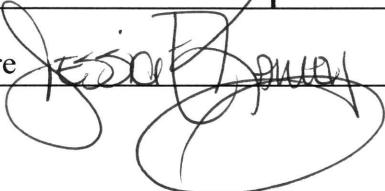
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1081

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date February 8, 1999

Tape Number	Side A	Side B	Meter #
No Tape			
Committee Clerk Signature 			

Minutes:

Senator Mutch called the committee to order. All senators were present.

James C. Flemming introduced HB1081. His testimony is included. Senator Mutch asked hi if the intent for the bill was to reduce the fees. Mr. Flemming said that the board would like that opportunity. Senator Mutch said that from how he was understanding the bill was that this bill, while reducing the fees, it would be cracking down on the late fees. Mr. Flemming said that the board hopes that the late fees don't have to be changed.

Senator Mutch closed the hearing on HB1081.

Discussion was held.

Senator Sand motioned for a do pass recommendation on HB1081. Senator Heitkamp seconded the motion. The motion carried with a 7-0-0 vote.

Senator Thompson will carry the bill.

Date:
Roll Call Vote #:

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. NB 1081

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS.

Motion Made By SANO Seconded By HEITKAMP

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Heitkamp	X				
Senator Mathern	X				
Senator Thompson	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment THOMPSON

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 8, 1999 1:55 p.m.

Module No: SR-25-2188
Carrier: Thompson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1081, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1081 was placed on the Fourteenth order on the calendar.

1999 SENATE APPROPRIATIONS

HB 1081

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. ENGROSSED HB 1081

Senate Appropriations Committee

Conference Committee

Hearing Date 3/10/99

Tape Number	Side A	Side B	Meter #
1	x		1450-3215
3/18/99 2	2700-3025		
Committee Clerk Signature <i>Gaudia Anderson</i>			

Minutes:

SENATOR NAADEN: Opened the hearing on engrossed HB 1081, a BILL for an Act to create and enact a new section to chapter 43-30 of the North Dakota Century Code, relating to temporary private investigative and security service licenses or registrations; and to amend and reenact sections 43-30-04, 43-30-06, and 43-30-16, of the North Dakota Century Code, relating to fees and criminal history record checks for applicants for a license or registration to provide private investigative and security services.

JIM FLEMING: Assistant Attorney General appointed to represent the Investigative and Security Board, testifying on behalf of the Board in favor of HB 1081. The Board asked to have this bill introduced to complete the process that was started last session. Last session the legislature agreed that the Board should perform national criminal history background checks on people who apply for licenses or registrations issued by the Board. Unfortunately, the language was written in the discretionary term "may". The Board "may" require such background checks. The Board intended all along to "require" that by administrative rule. We get out national background checks from the FBI. The FBI said we're not going to give it to you unless your statute says "shall", not just your rule. It has to be in statute. The main purpose of the bill before you is to replace the word "may" with "shall" to enable the Board to obtain national background checks for applicants. Much of the rest of the bill is housekeeping: things like making the fees charged by the board "maximum" instead of "mandatory". So if the Board's finances are in good shape they can reduce the fees for a time and not roll up a large surplus that they don't need. One of the things also discussed in terms of the impact of doing all of these national checks is that the process was going to take up to 6 weeks to get the background checks back from the FBI. The Board didn't want to make the industry wait 6 weeks to hire a new employee pending the national check. There are a large amount of either the private investigative or security profession that are hired on a very short term basis. Sometimes they aren't employed for 6 weeks which makes little sense to wait 6 weeks to do background checks to hire somebody for 2 weeks. The thought there needs to be an interim license that is if once the applicant satisfied all statutory conditions for getting a license except for the national check. The Board envisions that once the

applicant satisfies all other requirements, the Board will send out the request for national check and will issue some kind of yellow or pink license with temporary written all over to the applicant saying this is good until we get the background check. Then it isn't good anymore. This will allow them to act as if they're licensed pending the national check. If the national check comes back and shows they've committed an offense that disqualifies them from having a license, the temporary license automatically expires anyway without any kind of action of the Board and the Board simply won't issue a license. The person will no longer be allowed to practice investigative or security services. That generally is what the bill does.

I have an amendment (attached) that I passed around on behalf of the Board. In looking at this bill again since the last Board meeting, they realized if they had an applicant from another state who had recently been the subject of a state or national criminal history check, a completely new check would be required in this state. The national check costs \$22/time, the ND state check costs \$20/time. Again, when you have these security persons hiring a lot of individuals on a temporary basis, they're looking at a \$42 bill under the bill as engrossed. Bill Butcher, a member of the Board, is here to explain a little bit more that reciprocity was in order. The gist of the bill is that if a national or statewide check has been performed in another state within the last 60 days, that is acceptable proof of background check for purposes of the ND Board.

SENATOR SOLBERG: This amendment has nothing to do with what we're looking at. We're just looking at the fiscal note. Did you submit this to the IBL Committee?

FLEMING: I did not. The reason is that the Board's last meeting where they realized this bill had this hole in it occurred after the last committee meeting. I expected representatives from the Bureau of Criminal Investigation to be here because they've prepared the fiscal note. The reason I've offered this amendment here is because as a result of accepting reciprocity from other states, it will result in less background checks and reduce the fiscal impact of the bill.

SENATOR SOLBERG: You also stated this is a housecleaning bill: late fee not to exceed \$50; late fee not to exceed \$100 may be charged for each month. It looks like you're cleaning out somebody's house pretty good.

FLEMING: What I said is some of the bill is housekeeping. I don't want any of you to be left with the impression that it all is. There are certainly material provisions in this bill. The housekeeping part is to make the annual fees maximum amounts and not mandatory amounts. But, understand, the bill also does give the Board some ability to charge late fees if people get their applications in late.

SENATOR NAADEN: That shows a fiscal effect of \$116,000 for '99-'01, and \$121,000 in the next biennium.

FLEMING: I'm not speaking on behalf of BCI. But, since they're not here, I understand the reason for the fiscal note is even though BCI charges \$20/background check. That amount goes to the state general fund and does not go into the appropriation for the Office of the Attorney General to cover the cost of BCI of performing the check. I have spoken with BCI this morning

and they tell me the amendment will have a reduction in the fiscal note. I thought they would be here to testify on this part. I can't comment further on the fiscal note.

SENATOR ANDRIST: The fiscal impact to the general fund is recovered by fees, isn't it?

FLEMING: I believe that is correct.

SENATOR ANDRIST: It net balances out ultimately, I presume.

FLEMING: Again, BCI would be much better to answer that. Right now as I understand it, the money is coming into the general fund, but that's not the pot of money from which BCI is paying the expense. The increase to the general fund is the result of the background checks, and do not get transferred to the Office of Attorney General budget to cover their expense. \$200,000 generated would not cover the salaries of the Attorney General's Office, BCI, to do the increased background checks.

SENATOR NAAEDEN: As that bill passed out of the Senate, those moneys did go back to the Attorney General. In the past they did not, but as of now there was \$250,000 we added to the Attorney General's Office to bring up their IT program. It was money they collected and turned over the general fund. Now that money will stay there to pay for part of their information technology.

BILL BUTCHER: speaking as a business owner that is affected by this legislation and part of the industry regulated by the private investigative security board, and also speaking as a board of that board. I'm the Sec./Treas. I've personally been concerned about the national criminal check. When we hire security guards in ND up to and including now, we only conduct criminal checks in ND. We don't have any way to check the other 49 states. The concern is that if there is a private investigator or a security employee who comes to the state he/she certainly wouldn't have a record in ND or most probably would not. They would have a record wherever they resided. This to me is very important. The \$20 is recovered as was discussed. The question about the maximum fees up until now or the last legislative session, the fees were set by law. Now we're asking they be made maximum fees that would give us an opportunity to reduce those fees which is our interest. We currently have a surplus. As Treasurer, I projected a greater surplus in the future and we're going to look at that very seriously. This would give us the tools with which to do that. The temporary license has been well explained. The amendment will reduce the fiscal impact as was discussed. Our feeling is this particularly applies to people in the Red River Valley, and of course on the Montana border too, although there is much more use of this law in the Red River Valley because of the greater population. The nationwide criminal check if it has been conducted by someone else, for example if someone in Fargo or Moorhead is applying for private security or private investigative license in ND and they are also applying in MN, MN requires a nationwide criminal check. It is the same nationwide criminal check. We feel there is absolutely no reason for us to conduct another check that is identical. As far as the provision for the statewide criminal check, again if someone is from Milwaulkee or Lando, we don't see much point in conducting a background check in ND if they've never resided here. So, the Board feels if those criminal checks have been conducted in the last 60 days, they will suffice and we won't ask for an additional criminal check unless there is a reason to do so. (tape 2600)

SENATOR NAA DEN: What do you use your revenue for?

BUTCHER: To regulate the industry. We issue licenses, we have an executive officer, Francine Johnson, who administers the business of the Board, that has to do with licensing, registration, testing, there are all of these requirements within the law and within the administrative rules. Discipline also.

SENATOR ANDRIST: I share Senator Solberg's concern. These penalties - \$50/month for a penalty on a \$150 license. I presume you're never going to access that kind of penalty. In the private sector they'd probably throw us in jail if we accessed fees like that. I hesitate to change it since its gone through the IBL Committee. I hope you would use restraint. The penalties seem excessive.

BUTCHER: I can assure you as a Board member, I will. That is an administrative function that I frankly haven't had much to do with. I'd defer to Mr. Fleming or Ms Johnson for further discussion on that.

FLEMING: In deciding how much to charge as a penalty, the Board generally used a factor of one-third the annual rate of license; but, in some events that was 1/3 of \$5.00 which has absolutely no relation to the addition expense of the Board trying to remind the licensee they need to get that in. Generally it was a rule of 1/3 or \$5.00 whichever was greater.

JOE HERSLIP: Criminal Records & Identification Manager, Attorney General's Office. To answer any questions on the fiscal note that you may have.

SENATOR TALLACKSON: Have you seen the amendment and is that okay with you?

HERSLIP: Mr. Fleming filled me in on the amendment. If that is okay with the private security board, as far as with us that is okay. I'm not sure of what all the implications to that may be, and maybe Mr. Fleming or other members of the Board could fill that in. Obviously, we deal with individuals from all walks of employment on doing background checks. I guess I like to think if you're going to do a background check, try to do a background as complete as possible. I know there are concerns with the cost of that. Costs are set by the legislative assembly, and often passed onto the applicant. If there are ways to try to alleviate those costs for the applicant, I think that is good. Other than that, I can't answer if it is good, bad, or otherwise to try to look at certain groups that you shouldn't do a background check on.

SENATOR NAA DEN: Closed the hearing on engrossed HB 1081. (tape 3215)

3/18/99 (tape 2, A, 2700-3025)

SENATOR NETHING: Reopened the hearing on engrossed HB 1081, and called for the motion.

SENATOR HOLMBERG: Moved do pass amendment 980076.0201 to engrossed HB 1081.

SENATOR KRAUTER: Seconded the motion.

ROLL CALL: Unanimous voice vote to approve.

MOTION CARRIED TO AMEND ENGROSSED HB 1081.

CARRIER: SENATOR HOLMBERG

SENATOR NETHING: Called for the motion on Engrossed HB 1081, as amended.

SENATOR NAADEN: Moved do pass.

SENATOR HOLMBERG: Seconded the motion.

ROLL CALL: 12 yeas; 0 nays; 0 absent & not voting

CARRIER: Back to Referral

SENATOR NETHING: Closed the hearing on engrossed HB 1081.

Submitted on behalf of the
North Dakota Private Investigative
and Security Board
March 10, 1999

PROPOSED AMENDMENTS

Page 2, line 6, remove "by the board"

Page 2, line 8, after the period, insert "A nationwide criminal history check is not required under this section if an applicant for licensure or registration provides to the board the results of a nationwide criminal history check performed by the federal bureau of investigation at the request of another state and if the nationwide criminal history check was performed within the sixty days immediately preceding the date of the application. A state criminal history check is not required under this section if an applicant for registration provides to the board the results of a state background check performed by the state in which the applicant currently resides and if the state background check was performed within the sixty days immediately preceding the date of the application."

Date: 3-18-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1081

Senate APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

✓ Legislative Council Amendment Number 98076.0201

Action Taken NO PASS

Motion Made By SENATOR Holmberg Seconded By SENATOR KRAUTER

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman					
Senator Naaden, Vice Chairman					
Senator Solberg					
Senator Lindaas					
Senator Tallackson					
Senator Tomac					
Senator Robinson					
Senator Krauter					
Senator St. Aubyn					
Senator Grindberg					
Senator Holmberg					
Senator Kringstad					
Senator Bowman					
Senator Andrist					

Total (Yes) UNANIMOUS No _____

Absent _____

Floor Assignment SENATOR Holmberg

If the vote is on an amendment, briefly indicate intent:

Date: 3-18-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1081

Senate APPROPRIATIONS

Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS AS AMENDED

Motion Made By SENATOR NAADEN Seconded By SENATOR HOLMBERG

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman	✓				
Senator Solberg		✓			
Senator Lindaas	✓				
Senator Tallackson	✓				
Senator Tomac	✓				
Senator Robinson	✓				
Senator Krauter	✓				
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad	✓				
Senator Bowman	✓				
Senator Andrist		✓			

Total (Yes) 12 No 2

Absent 0

Floor Assignment SENATOR (BACK TO REFERRAL)

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1081, as engrossed: Appropriations Committee (Sen. Nething, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1081 was placed on the Sixth order on the calendar.

Page 2, line 6, remove "by the board"

Page 2, line 8, after the underscored period insert "A nationwide criminal history check is not required under this section if an applicant for licensure or registration provides to the board the results of a nationwide criminal history check performed by the federal bureau of investigation at the request of another state and if the nationwide criminal history check was performed within the sixty days immediately preceding the date of the application. A state criminal history check is not required under this section if an applicant for registration provides to the board the results of a state background check performed by the state in which the applicant currently resides and if the state background check was performed within the sixty days immediately preceding the date of the application."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

SENATE - This amendment adds language providing that a criminal history check is not needed if a nationwide criminal history check was performed within 60 days prior to the date of application.

1999 TESTIMONY

HB 1081



701-222-3063

North Dakota

PRIVATE INVESTIGATION & SECURITY BOARD

P.O. Box 7026

Bismarck, N.D. 58507

RE: HB1081

The Private Investigation & Security Board requests the passing of bill 1081. The passing of this bill would allow our Board to require nationwide criminal history record checks on those individual requesting licenses or registrations in the private investigation and private security industries. Currently the only criminal background we are able to obtain is a state background check. Without having a required nationwide check we may be unknowingly licensing individuals whom do not meet our standards, and who may, in fact, be convicted felons in other states, or individuals wanted or with warrants in other states. Without the passing of this bill we are not able to obtain such nationwide information to assist us in determining the acceptability of our applicants/registrants.

In conjunction with mandating a nationwide check we are requesting the ability to issue temporary licenses. This would allow the individual to work in the private investigation or security sector temporarily until the nationwide check is completed. The bill also requires the applicant file a complete set of fingerprints with the board and all other information necessary for the federal bureau of investigation to complete the background check. The federal bureau of investigation is the only source we can obtain a nationwide check from and they require fingerprints be taken.

The board also requests in this bill that our current licensing fees be maximum fees rather than mandatory amounts. We are also asking to be authorized to impose late fees on certain charges. Without these late fees we are limited in our ability to enforce the renewal fees be paid in a timely manner.

Cathy Schuh
Chairperson

TESTIMONY ON BEHALF OF STATE PRIVATE INVESTIGATIVE
AND SECURITY BOARD
IN SUPPORT OF HOUSE BILL 1081

February 8, 1999

James C. Fleming
Assistant Attorney General

Good morning, Chairman Mutch and members of the Senate Industry, Business and Labor Committee. My name is Jim Fleming, and I am the assistant attorney general appointed to represent the State Private Investigative and Security Board. I am appearing today on behalf of the Board, and not on behalf of the Office of Attorney General, to request a "do-pass" recommendation on House Bill 1081.

During the last session, N.D.C.C. § 43-30-06 was amended to authorize, but not require, nationwide criminal history background checks by the FBI. Since that time, the FBI has indicated that it will not do a nationwide background check unless a check is mandatory. Also, the Board has realized that requiring a nationwide background check may add as much as six weeks to the licensing process.

House Bill 1081 was introduced at the request of the Board to do four things: to make background checks by the FBI mandatory rather than discretionary, to authorize temporary licenses while the FBI processes the background checks, to make the fees charged by the Board maximum amounts rather than mandatory figures, and to authorize late fees for licensees and registrants who do not pay the required fees on time.

In the House, the bill was amended at the request of the North Dakota Peace Officers Association to also require state background checks. The Board supported this amendment.

House Bill 1081 is a good bill and the Board asks for a "do-pass."